



# United States Department of the Interior

National Park Service

Midwest Region  
601 Riverfront Drive  
Omaha, Nebraska 68102-4226



DEC 8 2013

1.A.1(MWR-PCL/PC)

Ms. Kristi Rhude, Secretary  
Arkansas Public Service Commission  
P.O. Box 400  
Little Rock, Arkansas 72203-0400

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NATIONAL PARK SERVICE  
LITTLE ROCK, ARKANSAS

Dear Ms. Rhude:

The National Park Service (NPS) has read the September 1, 2013, submission to the docket relating to Southwestern Electric Power Company (SWEPCO) proposed Shipe Road—Kings River 345-kV power line entitled “Staff’s Proposed Findings of Facts and Conclusions of Law” (Findings). We would strenuously disagree with the staff of the Arkansas Public Service Commission’s (APSC) characterization in that Findings of our two comment letters and with the statement made by staff that NPS concerns have been addressed by SWEPCO. The NPS additionally requests that APSC take no action on selecting a route due to insufficient historical resource information from which to base a decision. We believe that SWEPCO should be required to append their environmental review with the important information that was referred to in our letters, which we believe would aid the APSC’s decision-making process, and that the APSC take no action until Section 106 consultation, which is required under the National Historic Preservation Act (NHPA), is initiated.

As we described in our letters of May 5, 2013, and August 28, 2013, the NPS is very concerned that the proposed Route 33 would unacceptably impact Pea Ridge National Military Park (National Park) and important battlefield lands outside the park, the Trail of Tears National Historic Trail (National Trail), and other historic properties. The Findings fail to address our concerns. Paragraph 18 of the Findings simply states: “The National Park Service expressed concerns regarding the impacts to Pea Ridge National Military Park.” This vague comment fails to mention any of our specific concerns and dramatically differs from the longer and substantive paragraphs the APSC staff provided to address the issues raised by other State and Federal Agencies. Notably, our May 5, 2013, letter (Attachment 1) states that both Routes 33 and 62 would seriously impact park scenery and cross unprotected battlefield lands outside the park that the NPS has identified for a potential boundary adjustment (i.e., future inclusion as part of the National Park owned and managed by the NPS on behalf of the American people). We also mentioned that all six routes cross the National Trail.

We note that our letter from August 20, 2013, letter (Attachment 2) is not specifically mentioned in the Findings. We assume it is referenced in paragraph 21, which states: “The U.S. Department of Interior’s public comment letter was filed on August 27, 2013. Since this letter was received



during the evidentiary hearing, the concerns raised were addressed during testimony.” Whether or not our letter was discussed at the evidentiary hearing should not affect a proper summary from being included in the Findings. Among other things, we disagree with SWEPCO’s assertion, stated in a June 10, 2013, letter to the National Park, that Route 33 will “not traverse the planned additions to the park.” Using SWEPCO’s Geographic Information System shape files, we prepared a comprehensive map and illustrated that Route 33 will clearly cross lands identified for a potential boundary adjustment, as well as lands included within a potential National Register Boundary for the Pea Ridge Battlefield that has been identified by the American Battlefield Protection Program. We believe that Route 33 would create a physical and scenic barrier between the main battlefield of the National Park and the “Detached Area” intended to protect a portion of the Union trenches related to the battle.

Furthermore, the NPS remains deeply troubled that required section 106 consultation has not been undertaken by the U.S. Army Corps of Engineers (USACE). Section 106 consultation is meant to be conducted “early in the undertaking’s planning, so that a broad range of alternatives may be considered during the planning process for the undertaking.”<sup>1</sup> The USACE states in its July 10, 2013, letter that “all the proposed routes cross Corps of Engineers property,” which means the project can be considered a “Federal undertaking” under the NHPA and that USACE must now “take into account” the effects of the proposed actions on historic properties. Accordingly, section 106 consultation should be undertaken immediately and before any decision is made by the APSC regarding the selection of a route. Pausing to allow for section 106 consultation to inform the route selection process is prudent and consistent with regulatory process of the Advisory Council on Historic Preservation (36 CFR Part 800 Protection of Historic Properties (as amended in August 2004)):

(c) Timing. The agency official must complete the section 106 process “prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license.” This does not prohibit the agency official from conducting or authorizing nondestructive project planning activities before completing compliance with section 106, provided that such actions do not restrict the subsequent consideration of alternatives to avoid, minimize or mitigate the undertaking’s adverse effects on historic properties. The agency official shall ensure that the section 106 process is initiated early in the undertaking’s planning, so that a broad range of alternatives may be considered during the planning process for the undertaking.<sup>2</sup> (Emphasis added.)

We worry that this inaction, combined with the insufficiency of SWEPCO’s environmental review prepared for the APSC, fails to provide the APSC with a reasonable baseline of information for this project’s impacts on historic properties, especially from Route 33. Accordingly, we encourage APSC to take no action regarding the selection of a route until the important NHPA Section 106 process has been initiated, and the findings from this process are able to inform the USACE, APSC, and all permitting parties.

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<sup>1</sup> 36 CFR Part 800 Protection of Historic Properties (as amended in August 2004)

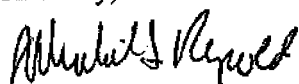
<sup>2</sup> Ibid.

It is the view of the NPS that the SWEPCO should append the environmental review prepared for the APSC so that it adequately considers historic resources such as the National Park and important battlefield lands outside the National Park, the National Trail, and other historic properties. As stated in our August 2013 letter, the National Trail is crossed by all 6 routes, but was neither mentioned nor considered in the SWEPCO's review. Although the SWEPCO argued to the Department of Arkansas Heritage in its May 9, 2013, letter that section 106 is not applicable, it has become clear that the SWEPCO was mistaken. Due to inaction on section 106 consultation, the Advisory Council for Historic Preservation recently sent a letter (Attachment 3) to the USACE requesting a status update and to alert them that they were never notified as to whether there will be determinations made relating to "adverse effects on historic properties resulting from this project."

Finally, due to our unresolved concerns, we strongly disagree with the APSC's conclusion in paragraph 22 of their submission stating: "All the questions and issues raised by the state and federal agencies have been appropriately addressed by SWEPCO." For instance, the SWEPCO has not yet explained why the National Park was left outside the 500-foot wide study area for powerline segments described in its environmental review. As we stated in our August 20, 2013, letter: "Since sections S, V, and Y of Routes 33 and 62 pass within 500 feet to the Detached Area of Pea Ridge NMP, the EIS should have included a full analysis of potential impacts to the park. This oversight is extremely concerning to the NPS." Another issue that has not been addressed is why the National Park was excluded from consideration under the "Aesthetic Displeasure" criterion for the SWEPCO's Certificate of Environmental Compatibility and Public Need (CECPN) application submitted to the Commission.

The NPS has a long history of working with States for the betterment of those natural and historic resources important to the country and its citizens. We are not opposed to energy development, but we do oppose those developments that fail to take into account the impact they may have on some of the nation's priceless historic treasures; Pea Ridge is certainly one. If you have any questions or would like to discuss the concerns outlined in this letter, please contact the National Park Superintendent John Scott at 479-451-8122, ext. 224.

Sincerely,



Michael T. Reynolds  
Regional Director

Attachments 3

cc:

Mr. Bill John Baker, Principal Chief, Cherokee Nation of Oklahoma, P.O. Box 948,  
Tahlequah, Oklahoma 74465

Mr. John D. Red Eagle, Principal Chief, The Osage Nation, P.O. Box 779, Pawhuska, Oklahoma  
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Mr. John Berrey, Tribal Chairperson, Quapaw Tribe of Oklahoma, P.O. Box 765,  
Quapaw, Oklahoma 74363

Mr. George Wickliffe, Chief, United Keetoowah Band of Cherokee Indians, P.O. Box 746,  
Tahlequah, Oklahoma 74465

Mr. Lee A. Webb, Energy Liaison, Advisory Council for Historic Preservation, Old Post Office  
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Mr. Jason V. Gramlich, Natural Resource Specialist, US Army Corps of Engineers, Little Rock  
District, PO Box 867, Little Rock, Arkansas 72203

Mr. Aaron Mahr, Superintendent, National Park Service, National Trails Intermountain Region,  
P.O. Box 728, Santa Fe, New Mexico 87505

Honorable Mark Pryor, United States Senate, 320 Hart Senate Office Building, Washington,  
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Honorable John Boozman, United States Senate, 320 Hart Senate Office Building, Washington  
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Honorable Steve Womack, House of Representatives, 1119 Longworth House Office Building,  
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Mr. Mike Beebe, Arkansas Governor, 500 Woodland Street, Little Rock, Arkansas 72201

Mr. Dustin McDaniel, Arkansas Attorney General, 323 Center Street, Little Rock, Arkansas  
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Ms. Martha Miller, Arkansas Historic Preservation Program, 323 Center Street, Suite 1500,  
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Mr. Richard Davies, Arkansas Department of Parks & Tourism, One Capitol Mall,  
Little Rock, Arkansas 72201

Mr. Jackie Crabtree, Mayor City of Pea Ridge, AR, P.O. Box 10, 227 A East Pickings Street  
Pea Ridge, Arkansas 72751

Ms. Laura Hamilton, Mayor Garfield, AR, PO Box 131, Garfield, Arkansas 72732

Mr. James Lighthizer, President, Civil War Trust, 1156 15th Street NW, Suite 900, Washington  
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Ms. Stephanie K. Meeks, President, Trust for Historic Preservation, 1785 Massachusetts Avenue,  
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Mr. Glenn Jones, Commissioner, Benton County Historical Preservation Commission,  
300 W Poplar, Ste. 6, Rogers, Arkansas 72756

Pea Ridge National Military Park Foundation, P.O. Box 925, Pea Ridge, Arkansas 72751

Heritage Trails Partners, 623 Spring Creek Road, Lowell, Arkansas 72745